record" and a rejection of Claims 14 and 28 under 35 U.S.C. §103(a) as being unpatentable over Mori (JP-9-211986) in view of what the outstanding Action continues to mistakenly characterizes as "admitted prior art of record."

The indication that Claims 1-11, 15-25, and 29 are allowed and that Claims 13 and 27 are only objected to as depending from a rejected base claim and would be allowable if rewritten as indicated in the outstanding Action is gratefully acknowledged.

Turning to the outstanding rejections, it is first noted that the cancellation of Claims 14 and 28 is believed to render the above -noted rejection thereof moot.

With further regard to the rejection of Claims 12 and 26 under 35 U.S.C. §103(a) as being unpatentable over Sakurba (U.S. Patent No. 6,112,043) in view of what the outstanding Action continues to mistakenly characterize as "admitted prior art of record," it is noted that the outstanding Action has clearly misinterpreted the knowledge of what was known in Japan by the Japanese inventors to be an admission of prior art. In this regard, if the PTO intends to substitute a reference for this mistaken interpretation of knowledge in Japan being admitted "prior art," it should do so because references cited as of interest fail to meet the requirement noted at MPEP §7006.02(j) as to In re Hoch, 428 F.2d 1341, 1342 n.3 166 USPQ 406, 407 N.3 (CCPA 1970) requiring all references relied upon in any capacity, even a minor one, to be positively included in the statement of the rejection.

Furthermore, it is noted that the filing date of Sakurba (U.S. Patent No. 6,112,043) is July 8, 1999 while Applicants' foreign priority date based upon Japanese Application 11-079824 is March 3, 1999. In light of the enclosed English translation of Japanese priority Application 11-079824 and the statement of the translator that the translation of Japanese Application 11-079824 is an accurate one, which translation and statement satisfy the requirements for perfecting a foreign priority date as noted in 37 CFR §1.55, it is believed

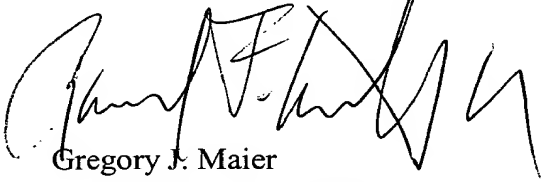
that Sakurba (U.S. Patent No. 6,112,043) has been overcome and can no longer be considered a "prior art" reference under 35 U.S.C. §102(e). See MPEP §201.15.

As Sakurba (U.S. Patent No. 6,112,043) is not a "prior art" reference in view of Applicants' perfected foreign priority date, it cannot be used as evidence of obviousness. Moreover, as there has been no actual admission by the Applicants of "prior art" status as to two-level developing, this discussion of what was known in Japan to the present Japanese inventors as to two-level developing cannot be applied as a "prior art" admission as fully discussed at page 7 of the response filed October 22, 2002. Also, while Yergenson (U.S. Patent No. 6,266,073) and Kim et al (U. S. Patent No. 6,124,066) have been cited as of interest to teaching "two-level developing," neither of these references has been properly applied in any rejection statement, as noted above. Accordingly, the rejection of Claims 12 and 26 under 35 U.S.C. §103 is improper as lacking any "prior art" evidence of obviousness to establish the required *prima facie* case of obviousness and withdrawal of this improper rejection is believed to be in order.

As it is believe that no other issues remain outstanding in this application, it is believed that this application is in condition for formal allowance and an early and favorable action to that effect is, therefore, respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Registration No. 25,599
Attorney of Record
Raymond F. Cardillo, Jr.
Registration No. 40,440

22850

(703) 413-3000
Fax #: (703) 413-2220
GJM:RFC/jmp